

Amendment No. 1 to HB3504

Harwell
Signature of Sponsor

AMEND Senate Bill No. 3333

House Bill No. 3504*

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 48-69-103(6), is amended by deleting the semicolon at the end of subdivision (6) and by adding the following language:

, and "governmental electric system" may, at the election of the G&T cooperative for purposes of membership in the G&T cooperative, include the Tennessee Valley Authority, all as provided in the bylaws of the G&T cooperative;

SECTION 2. Tennessee Code Annotated, Section 48-69-106(b), is amended by adding the following language as a new subdivision:

(13) Enter into one (1) or more agreements providing for the making of payments in lieu of taxation to any state or local taxing jurisdiction within or outside of the state to the extent that the G&T cooperative's wholesale sale of capacity and energy to a member or patron of the G&T cooperative results in a diminution in payments in lieu of taxation from the Tennessee Valley Authority to such state and local governments. For purposes of this subdivision (b)(13), "payments in lieu of taxation" means payments made by the Tennessee Valley Authority to state and local governments on account of its gross proceeds under § 13 of the Tennessee Valley Authority Act of 1933, compiled in 16 U.S.C. § 831l. All such payments shall be ordinary operating expenses of the G&T cooperative.

SECTION 3. Tennessee Code Annotated, Title 67, Chapter 4, is amended by adding the following language as a new part:

§ 67-4-3101.

(a) It is the intention of this section to establish an obligation to make in lieu of tax payments to keep, insofar as practical, Tennessee and its local governments whole from any diminution in the in lieu of tax payments paid by the Tennessee Valley Authority on account of the provision of wholesale electric current to municipal utilities, electric cooperatives or other similar entities for resale within the state by sources other than the Tennessee Valley Authority.

(b)

(1) Each person, including each governmental and cooperatively organized person, engaged in the business of making covered wholesale sales of electric current to a municipality, electric cooperative or other similar entity doing business in the state shall, for the privilege of doing such business, pay to the state for state purposes a payment in lieu of tax in an amount equal to two and one-half percent (2.5%) of the gross receipts derived from or paid for the person's covered wholesale sales of electric current. If such person does not make the required in lieu of tax payment, then each municipality, electric cooperative or other similar entity engaged in making use of covered wholesale sales for electric current shall be responsible for making such payment in lieu of taxes. Only one (1) payment in lieu of tax shall be required for a single sale and use of a covered wholesale sale of electric current.

(2) Each person, including each governmental and cooperatively organized person, engaged in the business of making covered wholesale sales of electric current that owns one (1) or more electric plants within the state and other property for the generation of such electric current shall, for the privilege of doing such business, pay to the state for state purposes an additional payment in lieu of tax amount equal to two and one-half percent (2.5%) of the gross receipts derived from the person's covered wholesale sales of electric current from such plant. There shall

be credited upon the in lieu of tax payments required by this subdivision (b)(2) any taxes paid by or on behalf of the person engaged in a covered wholesale sale of electric current on account of the ownership or operation of electric generation facilities and other property used to generate, transmit or distribute such electric current under the Excise Tax Law, compiled in part 20 of this chapter, during the calendar year in which the tax payment becomes due. There shall be further credited upon the in lieu of tax payments required by this subdivision (b)(2) any other taxes or payments in lieu of taxes paid to the state or local governments during the calendar year in which the tax or the in lieu of tax payment becomes due by or on behalf of the person engaged in a covered wholesale sale of electric current on account of the ownership or operation of electric generation facilities and other property used to generate, transmit, or distribute such electric current.

(c) For purposes of this section, “covered wholesale sales of electric current” mean wholesale sales of electric current for resale within the area in the state where the Tennessee Valley Authority is the primary source of wholesale power as of the effective date of this Act.

(d) This section and the required in lieu of tax payments do not apply to any wholesale sale of electric current to or by the Tennessee Valley Authority.

(e) Any in lieu of tax payment collected pursuant to this section shall be added to the amounts received by the state from payments in lieu of taxes from the Tennessee Valley Authority and the combined amount shall then be distributed according to the provisions of § 67-9-101.

(f) The in lieu of tax obligations required by this section shall be administered and collected in the same manner as privilege taxes are administered and collected under part 3 of this chapter.

SECTION 4. The Tennessee advisory commission on intergovernmental relations is directed to continue to monitor, within existing resources, whether the current wholesale power supply arrangements between the Tennessee Valley Authority and municipal utilities and electric cooperatives are likely to change in the future in a way that could affect payments in lieu of taxes from the Tennessee Valley Authority to the state and to its local governments. No later than February 1, 2011 and annually thereafter, the Tennessee advisory commission on intergovernmental relations shall report written findings to the commerce, labor and agriculture committee of the senate; the commerce committee of the house of representatives; the finance ways and means committee of the senate; and the finance ways and means committee of the house of representatives. The report shall include recommendations, if any, on adjustments to the state tax system that would keep the state and local governments whole from such future changes.

SECTION 5. This act shall take effect upon becoming a law, the public welfare requiring it.